

CHAPTER 86

REGULATION OF CONTROLLED SUBSTANCES — CRIMINAL OFFENSES — RECEIPT, PROVISION, AND ADMINISTRATION OF OPIOID ANTAGONISTS

H.F. 595

AN ACT relating to controlled substances including the manufacture, delivery, or possession of a controlled substance including fentanyl; the manufacture of a controlled substance in the presence of a minor; conspiracy to manufacture for delivery or delivery or intent or conspiracy to deliver a controlled substance to a minor; receipt, provision, and administration of opioid antagonists, including by secondary distributors; providing for immunity; and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

MANUFACTURE, DELIVERY, OR POSSESSION OF A CONTROLLED SUBSTANCE

Section 1. [Section 124.401, subsection 1](#), paragraph a, subparagraph (8), Code 2023, is amended to read as follows:

(8) More than ten kilograms of a mixture or substance containing any detectable amount of those substances identified in [section 124.204, subsection 9](#), except for a mixture or substance containing any detectable amount of fentanyl or any fentanyl-related substance identified in [section 124.204, subsection 9](#).

Sec. 2. [Section 124.401, subsection 1](#), paragraph a, Code 2023, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) More than fifty grams of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance identified in [section 124.204, subsection 9](#).

Sec. 3. [Section 124.401, subsection 1](#), paragraph b, Code 2023, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) More than five grams but not more than fifty grams of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance identified in [section 124.204, subsection 9](#).

Sec. 4. [Section 124.401, subsection 1](#), paragraph c, Code 2023, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) Five grams or less of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance identified in [section 124.204, subsection 9](#).

Sec. 5. [Section 124.401, subsection 1](#), Code 2023, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. A person who causes the death of another person while participating in a violation of [this subsection](#) and who is not entitled to protection under [section 124.418](#), shall be sentenced to three times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

NEW PARAGRAPH. h. A person who causes serious bodily injury to another person while participating in a violation of [this subsection](#) and who is not entitled to protection under [section 124.418](#), shall be sentenced to two times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

NEW PARAGRAPH. i. For purposes of [this subsection](#), a person causes the death or serious injury of another person when the controlled substance contributes to the other person's death or serious injury.

Sec. 6. [Section 124.401C, subsection 1](#), Code 2023, is amended to read as follows:

1. In addition to any other penalties provided in [this chapter](#), a person who is eighteen years of age or older and who either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufactures ~~methamphetamine, its salts, isomers, or salts of its isomers~~ a controlled substance, counterfeit substance, simulated controlled substance, or imitation controlled substance in violation of [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”, in the presence of a minor shall be sentenced ~~up to an additional term of confinement of five years~~ to two times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended. However, the additional term of confinement shall not be imposed on a person who has been convicted and sentenced for a child endangerment offense under [section 726.6, subsection 1](#), paragraph “g”, arising from the same facts.

Sec. 7. [Section 124.401D](#), Code 2023, is amended to read as follows:

124.401D Conspiracy to manufacture for delivery or delivery or intent or conspiracy to deliver amphetamine or methamphetamine to a minor.

1. a. It is unlawful for a person eighteen years of age or older to act with, or enter into a common scheme or design with, or conspire with one or more persons to manufacture for delivery to a person under eighteen years of age a ~~material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers~~ controlled substance, counterfeit substance, simulated controlled substance, or imitation controlled substance in violation of [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”.

b. A violation of [this subsection](#) is a felony punishable under [section 902.9, subsection 1](#), paragraph “a” A person violating [this subsection](#) shall be sentenced to two times the term otherwise imposed under [section 124.401, subsection 1](#), and no such judgment, sentence, or part thereof shall be deferred or suspended.

c. A second or subsequent violation of [this subsection](#) is a class “A” felony.

2. a. It is unlawful for a person eighteen years of age or older to deliver, or possess with the intent to deliver to a person under eighteen years of age, a ~~material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers~~ controlled substance, counterfeit substance, simulated controlled substance, or imitation controlled substance in violation of [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”, or to act with, or enter into a common scheme or design with, or conspire with one or more persons to deliver or possess with the intent to deliver to a person under eighteen years of age a ~~material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers~~ controlled substance, counterfeit substance, simulated controlled substance, or imitation controlled substance in violation of [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”.

b. A violation of [this subsection](#) is a felony punishable under [section 902.9, subsection 1](#), paragraph “a” A person violating [this subsection](#) shall be sentenced to two times the term otherwise imposed under [section 124.401, subsection 1](#), and no such judgment, sentence, or part thereof shall be deferred or suspended.

c. A second or subsequent violation of [this subsection](#) is a class “A” felony.

3. Delivery to a minor or possession with intent to deliver to a minor a controlled substance, counterfeit substance, simulated controlled substance, or imitation controlled substance in violation of [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”, shall include the following products if the person knew or had reasonable cause to believe the controlled, counterfeit, simulated, or imitation controlled substance would be delivered to a person under eighteen years of age:

a. Combining a controlled substance listed in [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”, with a food or beverage product.

b. Marketing or packaging a controlled substance listed in [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”, to appear similar to a food or beverage product.

c. Modifying the flavor or color of a controlled substance listed in [section 124.401, subsection 1](#), paragraph “a”, “b”, or “c”, to appear similar to a food or beverage product.

Sec. 8. [Section 124.413, subsection 1](#), Code 2023, is amended to read as follows:

1. Except as provided in [subsection 3](#) and [sections 901.11](#) and [901.12](#), a person sentenced pursuant to [section 124.401, subsection 1](#), paragraph “a”, “b”, “e”, or “f”, “g”, or “h” shall not be eligible for parole or work release until the person has served a minimum term of confinement of one-third of the maximum indeterminate sentence prescribed by law.

Sec. 9. [Section 811.1, subsections 1 and 2](#), Code 2023, are amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class “A” felony; forcible felony as defined in [section 702.11](#); any class “B” felony included in [section 462A.14](#) or [707.6A](#); any felony included in [section 124.401, subsection 1](#), paragraph “a” or “b”; a second or subsequent offense under [section 124.401, subsection 1](#), paragraph “c”; any felony punishable under [section 902.9, subsection 1](#), paragraph “a”; any public offense committed while detained pursuant to [section 229A.5](#); or any public offense committed while subject to an order of commitment pursuant to [chapter 229A](#).

2. A defendant appealing a conviction of a class “A” felony; forcible felony as defined in [section 702.11](#); any class “B” or “C” felony included in [section 462A.14](#) or [707.6A](#); any felony included in [section 124.401, subsection 1](#), paragraph “a” or “b”; or a second or subsequent conviction under [section 124.401, subsection 1](#), paragraph “c”; any felony punishable under [section 902.9, subsection 1](#), paragraph “a”; any public offense committed while detained pursuant to [section 229A.5](#); or any public offense committed while subject to an order of commitment pursuant to [chapter 229A](#).

Sec. 10. [Section 901.2, subsection 2](#), paragraph b, Code 2023, is amended to read as follows:

b. The court shall order a presentence investigation when the offense is any felony punishable under [section 902.9, subsection 1](#), paragraph “a”, or a class “B”, class “C”, or class “D” felony. A presentence investigation for any felony punishable under [section 902.9, subsection 1](#), paragraph “a”, or a class “B”, class “C”, or class “D” felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty.

Sec. 11. [Section 901.10](#), Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A court sentencing a person for a violation of [section 124.401, subsection 1](#), paragraph “g”, shall not grant any reduction of sentence.

Sec. 12. [Section 902.9, subsection 1](#), paragraph a, Code 2023, is amended by striking the paragraph.

Sec. 13. [Section 906.5, subsection 1](#), paragraph a, Code 2023, is amended to read as follows:

a. The board shall establish and implement a plan by which the board systematically reviews the status of each person who has been committed to the custody of the director of the Iowa department of corrections and considers the person’s prospects for parole or work release. The board at least annually shall review the status of a person other than a class “A” felon, a class “B” felon serving a sentence of more than twenty-five years, or a felon serving an offense punishable under [section 902.9, subsection 1](#), paragraph “a”, or a felon serving a mandatory minimum sentence other than a class “A” felon, and provide the person with notice of the board’s parole or work release decision.

Sec. 14. REPEAL. [Section 901.5A](#), Code 2023, is repealed.

DIVISION II
RECEIPT, PROVISION, AND ADMINISTRATION OF OPIOID ANTAGONISTS

Sec. 15. [Section 135.190, subsection 1](#), Code 2023, is amended by adding the following new paragraphs:

NEW PARAGRAPH. 0a. “Community-based organization” means a public or private organization that provides health or human services to meet the needs of a community including but not limited to a nonprofit organization, a social service provider, or an organization providing substance abuse disorder prevention, treatment, recovery, or harm reduction services.

NEW PARAGRAPH. e. “Secondary distributor” means a law enforcement agency, emergency medical services program, fire department, school district, health care provider, licensed behavioral health provider, county health department, or the department of health and human services.

Sec. 16. [Section 135.190, subsection 1](#), paragraph d, Code 2023, is amended to read as follows:

d. “Person in a position to assist” means a family member, friend, caregiver, community-based organization, health care provider, employee of a substance abuse treatment facility, school employee, first responder as defined in [section 147A.1](#), or other person who may be in a place to render aid to a person at risk of experiencing an opioid-related overdose.

Sec. 17. [Section 135.190, subsections 2 and 4](#), Code 2023, are amended to read as follows:

2. a. Notwithstanding any other provision of law to the contrary, a licensed health care professional may prescribe an opioid antagonist to a person in a position to assist or to a secondary distributor.

b. (1) Notwithstanding any other provision of law to the contrary, a pharmacist licensed under [chapter 155A](#) may, by standing order or through collaborative agreement, dispense, furnish, or otherwise provide an opioid antagonist to a person in a position to assist or to a secondary distributor.

(2) A pharmacist or secondary distributor who dispenses, furnishes, or otherwise provides an opioid antagonist pursuant to a valid prescription, standing order, or collaborative agreement shall provide written instruction, which shall include emergency, crisis, and substance use referral contact information, to the recipient in accordance with any protocols and instructions developed by the department under [this section](#).

4. A person in a position to assist, a secondary distributor, or a prescriber of an opioid antagonist who has acted reasonably and in good faith shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an opioid antagonist as provided in [this section](#).

Sec. 18. [Section 135.190](#), Code 2023, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. Notwithstanding any other provision of law to the contrary, the chief medical officer of the department may issue a standing order that does not identify individual patients at the time it is issued for the purpose of dispensing opioid antagonists to a person in a position to assist.

NEW SUBSECTION. 3B. A person in a position to assist may distribute an opioid antagonist to any individual pursuant to [this section](#).

Sec. 19. [Section 147A.18, subsections 1 and 2](#), Code 2023, are amended to read as follows:

1. a. Notwithstanding any other provision of law to the contrary, a licensed health care professional may prescribe an opioid antagonist in the name of a service program, law enforcement agency, ~~or fire department~~, or secondary distributor to be maintained for use as provided in [this section](#). For purposes of [this section](#), “secondary distributor” means the same as defined in [section 135.190](#).

b. (1) Notwithstanding any other provision of law to the contrary, a pharmacist licensed under [chapter 155A](#) may, by standing order or through collaborative agreement, dispense,

furnish, or otherwise provide an opioid antagonist in the name of a service program, law enforcement agency, ~~or~~ fire department, or secondary distributor to be maintained for use as provided in [this section](#).

(2) A pharmacist or secondary distributor who dispenses, furnishes, or otherwise provides an opioid antagonist pursuant to a valid prescription, standing order, or collaborative agreement shall provide written instruction, which shall include emergency, crisis, and substance referral contact information, to the recipient in accordance with the protocols and instructions developed by the department under [this section](#).

2. A service program, law enforcement agency, ~~or~~ fire department, or secondary distributor may obtain a prescription for and maintain a supply of opioid antagonists. A service program, law enforcement agency, ~~or~~ fire department, or secondary distributor that obtains such a prescription shall replace an opioid antagonist upon its use or expiration.

Sec. 20. [Section 147A.18](#), Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A secondary distributor may possess and provide an opioid antagonist to a person in a position to assist as defined in [section 135.190](#).

Sec. 21. [Section 147A.18, subsection 4](#), paragraph b, Code 2023, is amended to read as follows:

b. A service program, law enforcement agency, ~~or~~ fire department, or secondary distributor.

Sec. 22. [Section 147A.18, subsection 4](#), Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The pharmacist who dispenses the opioid antagonist.

Sec. 23. [Section 155A.3, subsections 24 and 54](#), Code 2023, are amended to read as follows:

24. “*Limited distributor*” means a person operating or maintaining a location, regardless of the location, where prescription drugs or devices are distributed at wholesale or to a patient pursuant to a prescription drug order, who is not eligible for a wholesale distributor license or pharmacy license. “*Limited distributor*” does not include a secondary distributor as defined in [section 135.190](#).

54. “*Wholesale distributor*” means a person, other than a manufacturer, a manufacturer’s co-licensed partner, a third-party logistics provider, or repackager, engaged in the wholesale distribution of a drug. “*Wholesale distributor*” does not include a secondary distributor as defined in [section 135.190](#).

Sec. 24. [Section 155A.46, subsection 1](#), paragraph a, subparagraph (1), Code 2023, is amended to read as follows:

(1) ~~Naloxone~~ Opioid antagonists for overdose reversals.

Approved May 16, 2023